

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE THE APPLICATION OF	*	
ALVARO HERNAN PATIÑO NIETO,	*	Case No.:
Petitioner,	*	1:24-cv-2278-TCB
v.	*	
LEIDY VIVIANA CARDENAS MORENO,	*	
Respondent.	*	

**RESPONSE TO PETITION FOR RETURN OF CHILD**

COMES NOW Respondent LEIDY VIVIANA CARDENAS MORENO (“Respondent”), and files this Response to the *Verified Petition for Return of a Child* (the “Petition”) filed by Petitioner ALVARO HERNAN PATIÑO NIETO (“Petitioner”) and concerning the parties’ nine-year-old daughter, A.L.P.C. (the “Child”), showing this Court as follows:

**I. AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

The Child is well-settled within the meaning of the Hague Convention on the Civil Aspects of International Child Abduction (“Convention”) and the International Child Abduction Remedies Act (“ICARA”) (collectively, the “Act”).

SECOND AFFIRMATIVE DEFENSE

The Child is mature and objects to the return within the meaning of the Act.

THIRD AFFIRMATIVE DEFENSE

Returning the Child to Colombia would place the Child at grave risk of physical and psychological harm and in an intolerable situation within the meaning of the Act.

**II. ANSWER**

Respondent responds to each of the individually numbered paragraphs of the Petition as follows:

1. Respondent denies wrongfully taking and retaining the Child. As set forth in Respondent's Application for Asylum and for Withholding of Removal filed on March 19, 2023, Respondent fled Colombia with her children to escape Petitioner's unrelenting abuse. Respondent admits the remaining averments set forth in Paragraph 1 of the Petition.

2. Respondent admits the averments set forth in Paragraph 2 of the Petition.

3. Respondent admits the averments set forth in Paragraph 3 of the Petition.

4. Respondent admits the averments set forth in Paragraph 4 of the Petition.

5. Respondent denies she resides at 4987 Holbrook Circle, Duluth, Georgia 30096. Respondent admits the remaining averments set forth in Paragraph 5 of the Petition.

6. Respondent admits the averments set forth in Paragraph 6 of the Petition.

7. Respondent admits Petitioner filed a complaint of domestic violence against Respondent in approximately January 2020 and further states Respondent filed a complaint of domestic violence against Petitioner in February 2020. Respondent denies the remaining averments contained in Paragraph 7 of the Petition.

8. Respondent admits the averments set forth in Paragraph 8 of the Petition.

9. Respondent admits she filed a complaint of domestic violence against Petitioner in May (not June) of 2022. Respondent is without knowledge or information sufficient to form a belief as to the remaining averments set forth in Paragraph 9 of the Petition; thus, same are denied.

10. Respondent admits she never informed Petitioner of her intent to not return the Child to Colombia. Respondent denies she cut communication with

Petitioner. Respondent admits she did not return to Colombia on January 17, 2023. Respondent is without knowledge or information sufficient to form a belief as to the remaining averments set forth in Paragraph 10 of the Petition; thus, same are denied.

11. Respondent denies the averments set forth in Paragraph 11 of the Petition, as stated.

12. Respondent is without knowledge or information sufficient to form a belief as to Petitioner's efforts to have the Child returned to Colombia. Respondent admits the averments set forth in Paragraph 12 of the Petition, as stated.

13. Respondent admits the averments set forth in Paragraph 13 of the Petition.

14. Respondent denies the averments set forth in Paragraph 14 of the Petition.

15. Respondent denies the averments set forth in Paragraph 15 of the Petition.

16. Respondent denies the averments set forth in Paragraph 16 of the Petition.

17. Respondent admits the averments set forth in Paragraph 17 of the Petition.

18. Respondent admits the averments set forth in Paragraph 18 of the Petition.

19. Respondent is without knowledge or information sufficient to form a belief as to the averments set forth in Paragraph 19 of the Petition.

20. Paragraph 20 of the Petition contains only Petitioner's requests. To the extent it may be deemed that averments appear in Paragraph 20, same are denied.

21. Paragraph 21 of the Petition contains only Petitioner's requests. To the extent it may be deemed that averments appear in Paragraph 21, same are denied.

22. Paragraph 22 of the Petition contains only Petitioner's requests. To the extent it may be deemed that averments appear in Paragraph 22, same are denied.

**WHEREFORE,** Respondent respectfully prays that the Petition be DENIED in its entirety and for all such further relief as may be just and appropriate under the circumstances of this case.

This 24<sup>th</sup> day of June, 2024.

Respectfully submitted,

/s/ Misty L. Carlson

Misty L. Carlson

Attorney for Respondent

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**CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing document was prepared in 14-point type and Times New Roman font, in compliance with Local Rule 5.1(c).

This 24<sup>th</sup> day of June, 2024.

Respectfully submitted,

/s/ Misty L. Carlson  
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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing *Response to Petition for Return of Child* via CM/ECF System and served a copy of same as follows:

Alexa N. Lewis, Esq.  
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This 24<sup>th</sup> day of June, 2024.

Respectfully submitted,

/s/ Misty L. Carlson  
Misty L. Carlson  
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